

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2019-187-E

IN RE:

**Charles Lewis,
Complainant/Petitioner,**

v.

**Duke Energy Carolinas, LLC,
Defendant/Respondent.**

**Duke Energy Carolinas, LLC's
Motion to Dismiss**

Pursuant to S.C. Code Ann. § 58-27-1990, S.C. Code Ann. Regs. 103-829 and 103-352, and applicable South Carolina law, respondent, Duke Energy Carolinas, LLC (“DEC” or the “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on the merits because the Complaint filed by Mr. Lewis contains no allegation that DEC has violated any applicable statute or regulation, and a hearing in this case is not necessary for the protection of substantial rights. The Company also requests that the filing deadlines for all parties and the hearing date be held in abeyance until this motion is resolved. In support of its motion, DEC shows the following:

BACKGROUND

As described in its October 10, 2016 filing in Docket No. 2016-354-E, the Company has been in the process of deploying Advanced Metering Infrastructure (“AMI”) to its customers in South Carolina, which includes the deployment of smart meters. Customers who objected to the installation of a smart meter were temporarily bypassed during the deployment and have continued to be served by Automated Meter Reading (“AMR”) meters. AMR meters collect and transmit customers’ kWh usage via a low-power radio frequency signal (900 MHz radio frequency) that is read by equipment installed in the Company’s trucks as the meter readers drive by the location.

As more smart meters are deployed, routes for reading AMR meters are being discontinued. For that reason, and to accommodate the limited number of customer concerns related to smart meter deployment, DEC proposed—and the Commission approved—the Manually Read Meter (“MRM”) Rider.¹ Under the MRM Rider, rather than energy usage being communicated to the Company via radio frequency, the meter is instead read manually by a meter reader physically visiting the premises. As acknowledged in the Company’s application in Docket No. 2016-354-E, there are additional costs to provide this manual service under the MRM program, including initial setup costs and ongoing costs related to reading the meter, and subscribing customers are required under the Commission-approved MRM Rider to pay those added costs.

Although Mr. Lewis asserts that Duke Energy Florida (“DEF”) permits net energy metering using analog meters, this is not true. For its part, DEC uses 30-minute interval data to bill its net metering customers, and analog meters are incapable of capturing this level of detailed data. This is why the MRM Rider expressly precludes participation by customers taking service under a net metering rider. *See* Duke Energy Carolinas, LLC, Rider MRM (SC) (“This Rider is not available to customers taking service under a net metering rider.”).

Mr. Lewis also points out that the Company filed a proposal with the Commission, in Docket No. 2016-354-E, by which the initial set-up fee and monthly charges for participation in the Manually Read Meter program be waived for customers who provide a notarized statement from a South Carolina-licensed physician stating that the customer must avoid exposure to radio frequency emissions, to the extent possible, to protect their health. The Commission approved this proposal in Order No. 2019-429 issued on June 12, 2019.

¹ *See* Duke Energy Carolinas, LLC, Request for Approval of AMI Opt-Out Rider, Docket No. 2016-354-E (filed Oct. 10, 2016); Public Service Commission Nov. 2, 2016 Directive, Docket No. 2016-354-E.

ARGUMENT

DEC requests that this matter be dismissed pursuant to S.C. Code Ann. § 58-27-1990, which allows the Commission to dismiss a petition if it determines that “a hearing is not necessary in the public interest or for the protection of substantial rights.” The Complaint in this case does not allege any violation of an applicable statute or regulation upon which relief can be granted.

S.C. Code Ann. Regs. 103-320 requires that service “be measured by meters furnished by the electrical utility unless otherwise ordered by the commission” As explained above, the Company is unable to offer net energy metering service to customers taking service under the MRM Rider. Further, the Company no longer supports the use of analog electromechanical meters. All smart meters and AMR meters used by the Company are tested to confirm that they are in compliance with Federal Communications Commission (“FCC”) rules and guidelines, which set exposure limits for all types of devices that emit radio frequencies. The FCC standards for intentional and unintentional radio emissions and safety related to radio frequency exposure, Parts 1 and 2 of the FCC’s Rules and Regulations (47 C.F.R. §§ 1.1307(b), 1.1310, 2.1091, 2.1093), govern the certification and design of communicating meters and other devices such as cordless phones, remote control toys, personal computers, televisions, vacuum cleaners, among others. All meters used by the Company comply with these standards. Nevertheless, should a customer prefer to have his or her meter manually read, the customer may opt into the MRM program. Providing service under the MRM program carries added costs, however, including initial setup costs and ongoing costs related to reading the meter, and subscribing customers are required under the MRM Rider to pay those added costs.

Although the Company requests that this matter be dismissed because the Complaint in this case fails to allege any violation of an applicable statute or regulation, now that the Commission has approved the recently proposed modifications to the MRM Rider, Mr. Lewis may

request waiver of the MRM fees if he provides a notarized statement from a South Carolina-licensed physician stating that he must avoid exposure to radio frequency emissions, to the extent possible, to protect his health.

CONCLUSION

The Complaint filed in this proceeding contains no allegation that DEC violated any applicable statute or regulation. Therefore, this matter should be dismissed.

WHEREFORE, DEC moves the Commission to dismiss this matter with prejudice; requests that the Commission hold the testimony deadlines for all parties and the hearing in abeyance pending resolution of this motion; and requests such other relief as the Commission deems just and proper.

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 June 18, 2019